

**Regular Minutes  
City Council/Redevelopment Agency  
City of Huntington Beach**

Monday, October 4, 2004  
5:30 P.M. - Room B-8  
7:00 P.M. - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

An audiotape of the 5:30 p.m. portion of this meeting  
and a videotape of the 7:00 p.m. portion of this meeting  
are on file in the Office of the City Clerk.

The 5:00 p.m. portion of the meeting was recessed by City Clerk Joan L. Flynn to 5:30 p.m. in Room B-8 due to a lack of quorum.

**Call to Order**

Mayor Green called the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach to order at 5:30 p.m. in Room B-8.

**City Council/Redevelopment Agency Meeting Roll Call**

Present: Sullivan, Coerper, Hardy, Green, Cook  
Absent: Boardman

**Public Comments**

**Alise Clevely** spoke regarding the proposed moratorium and how it could delay her current construction. She urged Council to oppose Interim Ordinance No. 3683.

**Richard Batistelli**, President of the Huntington Harbour Property Owners Association (HHPOA) spoke in support of the proposed moratorium.

**Dave Stefanides** spoke on behalf of the Orange County Association of Realtors in opposition to the proposed moratorium. Mr. Stefanides informed Council of his concerns that the moratorium would make current 3-story homes non-conforming and would reduce options for homeowners, which would effect property values.

**The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication submitted by the Planning Department of a PowerPoint presentation titled *History Of 3<sup>rd</sup> Stories*.

**(City Council) Study Session Held – Presentation Made on Proposed Moratorium on Construction of Single Family, Three-Story Homes and Additions (440.10)**

Planning Director Howard Zelefsky gave a PowerPoint presentation titled *History of 3<sup>rd</sup> Stories*, which was announced as a Late Communication, regarding a proposed moratorium on construction of single family, three-story homes.

Director Zelefsky and Planning Manager Scott Hess responded to Council inquiries regarding homes currently under construction, Downtown and other Specific Plans, building height, and the proposed interim ordinance.

**Motion to Recess to Closed Session – Approved**

A motion was made by Sullivan, second Hardy to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Cook

NOES: None

ABSENT: Boardman

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(a) to confer with its City Attorney regarding pending litigation which has been initiated formally and to which the city is a party. The title of the litigation is Opp v. City of Huntington Beach, Court of Appeals, Fourth Appellate District, Division 3, Case No. G025947 (Opp I) and Opp v. City of Huntington Beach, et al; al.; Orange County Superior Court Case No. 748927, Court of Appeals Case No. G030601 (Opp II). Subject: **Opp v. City of Huntington Beach, et al.** (Opp 1 and Opp 2). (120.80)

**(City Council) Closed Session** – Pursuant to Government Code Section 54957.6 to meet with its designated representative : Agency Negotiator: Penelope Culbreth-Graft, City Administrator to consider personnel matters. Subject: **Compensation of Chief of Police.** (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – 7:00 P.M. – Council Chambers.**

**City Council/Redevelopment Agency Roll Call**

Present: Sullivan, Coerper, Hardy, Green, Boardman Cook

Absent: None

**No Actions Taken Which Require a Reporting Pursuant to Government Code §54957.1(a) (3) (B)).**

Mayor Green asked City Attorney Jennifer McGrath if there were any actions taken by the City Council or Redevelopment Agency in Closed Session that required a reporting. City Attorney McGrath responded that there were no actions to report.

**Pledge of Allegiance** – Led by Mayor Cathy Green

**Invocation** – Led by Reverend Jon Waterson, Community United Methodist Church

**The City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Joan L. Flynn announced Late Communications regarding agenda items that had been received by her office following distribution of the agenda packet:

Communication submitted by Richard Batistelli, President of the Huntington Harbour Property Owners Association (HHPOA) dated September 28, 2004 and titled *Zoning Text Amendment No. 03-01 (Through-Lot Development Standards)* stating their support for approval of Zoning Text Amendment No. 03-01.

Communication submitted by Randolph Takasuka dated October 3, 2004 (untitled) stating his support for the approval of Zoning Text Amendment No. 03-01.

Four communications submitted by: Jim Hume on behalf of his mother Mary Hume; Morris Salem on behalf of the Salem Family; Cynthia Forsthoff; and an email from [Thkiese@aol.com](mailto:Thkiese@aol.com) all dated October 4, 2004 stating their opposition to the adoption of Zoning Text Amendment No. 03-01.

Communication submitted by Keith R. Cuning dated October 1, 2004 (untitled) stating his opposition to the adoption of the ordinance relating to mobile home relocation benefits.

Communication submitted by Vickie Talley, Executive Director of the Manufactured Housing Educational Trust (MHET) dated October 1, 2004 and titled *Mobile Home Park Conversion Ordinance Modification October 4, 2004 Agenda Item D-2* stating opposition to the proposed amendments to the city's Mobile Home Park Conversion Ordinance Chapter 234.

Communication submitted by Steve Gullage from Maurice A. Priest, Corporate Counsel & Legislative Advocate for Golden State Manufactured-Home Owners League, Inc. (GSMOL) dated October 4, 2004 and titled *Proposed Modifications to Mobile home Park Conversion Ordinance Chapter 234; Comments on Proposed Wording of Proposed Changes No. 3684* urging the rejection of the proposed changes found in ordinance number 3684, and instead adopt and affirm the changes to Ordinance Chapter 234 as of September 6, 2004.

Communication submitted by John Craney dated September 30, 2004 and titled *Huntington Beach City Council Agenda for 10/4/04* requesting a delay in the public hearing for property located at 8101 Ellis Avenue until after the 15<sup>th</sup> of October 2004.

A Power Point Presentation submitted by Public Works Department dated October 4, 2004 titled *Resolution of Necessity 8101 Ellis Avenue*.

Communication submitted by David & Juliet Max-Muller dated October 4, 2004 and titled *Verizon FIOS power utility box* in opposition to the placement & design of the Verizon concrete pad and cabinet outside their residence.

**The Following Additional Late Communications Were Submitted During the Meeting:**

Communication submitted by Randy Fuhrman titled *17021 Wesport, 17031 Wesport, 17051/17041 Wesport*, which are copies of photographs of slopes and retaining walls.

Communication submitted by Randy Fuhrman, undated and untitled, which are photographs of various retaining walls with and without greenery.

Communication submitted by Gail Stoter titled *Somerset Lane, Gilbert Island –October 2004 and 16951 Concord Lane – March 2001*.

Communication submitted by Shirley de Heras titled *17087 Westport Drive – March 2001*.

Communication submitted by Bob Frishman, undated and untitled, which is a copy of a group of four photographs of the plants and weeds growing on a slope.

Communication submitted by Ron Davis, undated and untitled, which is a PowerPoint slide show of various utility cabinets in the City.

### **Public Comments**

**Chuck Scheid** spoke regarding the Howard Jarvis tax refund process and future revenue generating issues. Mr. Scheid asked citizens to contribute 10% or more of their refund to fund future lawsuits by contacting him at 714-536-7077, and distributed a communication titled *PUBLIC COMMENTS, 4 October 2004, Illegal Taxes*.

Councilmember Boardman replied to the previous speaker's comments.

Councilmember Sullivan thanked Mr. Scheid for his efforts.

**Ron Davis**, Chair of the Planning Commission, spoke in opposition to the Verizon item on the agenda, urging the Council to support the denial of Design Review No. 04-18 and to enable citizens to participate in the design of the boxes. Mr. Davis referred to a PowerPoint slide show, undated and untitled, to illustrate his concerns.

**Tim McCallion**, President of Verizon - Pacific Region, spoke in support of approval of Design Review No. 04-18, stating that the boxes are needed to connect the fiber optics and citing the advantages of fiber optics.

Councilmember Boardman asked Mr. McCallion if he would be present at the meeting when this item is to be discussed. Mr. McCallion replied in the affirmative.

**Douglas Armstrong** informed Council of the Union Pacific Railroad moving forward with remote controlled operations in the city. He emphasized his concern for public safety.

Mayor Green asked Mr. Armstrong how this information became available to him, to which he replied that he is a locomotive engineer for Union Pacific.

City Administrator Penelope Culbreth-Graft directed staff to obtain Mr. Armstrong's contact information.

**Mark Porter** spoke in opposition to the Verizon boxes, stating his opinion that they could be placed underground to minimize the negative impact.

**Rex Ricks**, candidate for City Council, informed Council of the Long Beach Airport plans, which would affect the quality of life for Huntington Beach residents. He suggested concerned citizens visit Long Beach City Hall to express their concerns. Mr. Ricks stated his opinion regarding slate mailers.

**Peggy Price** informed Council of the purpose of the Greater Huntington Beach Interfaith Council. Reverend Price invited community leaders and interested groups to attend the meetings, which are held the last Tuesday of the month at 7:45 a.m. in City Hall.

**Steve Stafford** spoke regarding alleged health and safety issues in his neighborhood and suggested placing the Verizon cabinets in underground vaults.

**Dave Stefanides**, Orange County Association of Realtors member, spoke in opposition to the proposed third story moratorium, stating that the city has a procedure in place that is adequate.

**Randy Fuhrman** spoke about the agenda item that addresses through lots and the related zoning text amendment. Mr. Fuhrman distributed Late Communications consisting of copies of photographs taken which illustrate vegetation encroaching on public walkways.

**John Earl**, candidate for City Council, spoke regarding the Coca-Cola Company and alleged human rights abuses. Mr. Earl asked Council to schedule a study session in order to discuss the company's Code of Conduct.

**Joey Racano**, candidate for City Council, spoke regarding the upcoming election, clean water and wetlands.

**(City Council) Closed Public Hearing Testimony Portion of this Continued Public Hearing to Consider Zoning Text Amendment (ZTA) No. 03-01 (Through Lot Development Standards) Amending Chapters 203, 210 and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Definitions and Fencing and Yards – Ordinance No. 3685 Not Read by Title - Directed Staff to Return November 15<sup>th</sup> with Guidelines for Wall Design on Through Lots and Addressing the Issues of: Starting CUP at Planning Commission Level, the Notification Process, and Primary and Secondary Frontage Definitions. (450.20)**

Mayor Green announced that this was the time noticed for a public hearing to consider the following:

**Applicant:** City of Huntington Beach

**Request:** To amend Chapters 203, (210 introduced in an alternative Ordinance – see agenda packet) and 230 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to regulate the placement of fencing, landscaping, and accessory structures within the rear and street side yards of through-lots. A through lot is defined as having frontages on two parallel streets. The proposed amendments are generally intended to prohibit fences and structures of any height on slopes and rear portions of through lots, require the sloped portion of a through lot to be fully landscaped and require fencing on a through lot to be located at top of grade, including fencing within an exterior side yard.

**Location:** Citywide

**Environmental Status:** Notice is hereby given that this Agenda Item is categorically exempt from the provisions of the California Environmental Quality Act.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Councilmember Sullivan recused himself since his property is a through lot.

The following communications were included in the agenda packet: communications submitted by Mike Palikan in support of Staff's recommendation of ZTA 03-01 and a petition addressed to the Planning Commission dated July 15, 2004 from Gilbert Island Through Lot Property Owners; communication submitted by Darrach G. Taylor in support of Staff's and Planning Commission's recommendations; communication from Jack Croshwait to Council dated October 4, 2004 including a petition; communication submitted by Shawn Hollub and by the Salem Family, which were included in the agenda packet.

Associate Planner Paul Da Veiga presented a PowerPoint slide report titled *Zoning Text Amendment No. 03-01 Through Lot Development Standards*, which was included in the agenda packet.

Planning Director Howard Zelefsky and Associate Planner Da Veiga responded to Council inquiries regarding frontage and setbacks, notification ranges, the conditional use permit (CUP) process, fence height, vegetation growing over sidewalks, and conditions of block walls. Director Zelefsky encouraged citizens to report any property in disrepair to the City.

Mayor Green declared the public hearing open.

Prior to announcing the public speakers, City Clerk Flynn restated for the record the following Late Communications which pertain to this public hearing:

Communication submitted by Richard Batistelli, President of the Huntington Harbour Property Owners Association (HHPOA) dated September 28, 2004 and titled *Zoning Text Amendment No. 03-01 (Through-Lot Development Standards)* stating their support for the approval of Zoning Text Amendment No. 03-01.

Communication submitted by Randolph Takasuka dated October 3, 2004 (untitled) stating his support for the approval of Zoning Text Amendment No. 03-01.

Four communications submitted by: Jim Hume on behalf of his mother Mary Hume; Morris Salem on behalf of the Salem Family; Cynthia Forsthoff; and an email from [Thkiese@aol.com](mailto:Thkiese@aol.com) all dated October 4, 2004 stating their opposition to the adoption of Zoning Text Amendment No. 03-01.

**Nina Patten** spoke in support of the proposed zoning text amendment stating that her main concern is that the slopes and walls be well-maintained and safe.

**Gail Stoter** spoke of the comparisons between Gilbert Island and Roundhill Drive and two-foot sidewalks. Ms. Stoter stated her support for the proposed ordinance amendments and distributed a Late Communication consisting of copies of photographs regarding Somerset Lane and Concord Lane.

**Shirley de Heras** identified herself as a through lot owner who supports the 2002 Beautification, Landscape, and Trees (BLT) endorsement. Ms. de Heras stated her opinion that existing walls should be covered with vines, and distributed a Late Communication consisting of copies of photographs regarding 17087 Westport Drive, March 2001.

**Ted Patten** spoke in support of the proposed zoning text amendment and related ordinance and asked that existing walls be landscaped, not torn down.

**Elfriede Geiger** spoke regarding the negative impact of walls placed on undeveloped slopes and if landscaped, the necessary maintenance of vegetation.

**Adrienne Parks** spoke in opposition to the proposed zoning text amendment stating concerns relative to property ownership rights and conditional use permit expenses. Ms. Parks asked the City Council to address the issue of walls throughout the city rather than singling out certain through lot residents.

**Manfred Lengsfeld** informed Council that some changes are being made to the code relating to seismic design requirements of retaining walls.

**Dora Kaikainahaole** thanked the Planning Commission for their efforts and stated her agreement with their report as well as staff recommendations.

**Jean Nagy** stated her opinion that the walls should be covered with Boston Ivy. She further informed Council that building a wall on the top of her slope would place it inches from her home, not allowing her to have a view of her property on the slope. Ms. Nagy urged councilmembers to consider Gilbert Island properties separately.

**Norma Gibbs** spoke relative to walls and lost views from her home, and stated her support for the Planning Commission's recommendations.

**John Satterthwaite** asked Council to deny the proposed zoning text amendment and stated his concerns relative to erosion on the slopes.

**Jackie Satterthwaite** spoke against what she alleged is a special interest group trying to take away property rights.

**Scott Dowds** spoke in opposition to the proposed zoning text amendment stating that the current code is sufficient. Mr. Dowds informed Council that half of the through lots are on Gilbert Island, and he stated in his opinion that Gilbert Island has no problems.

**Jay Sheth** asked the City Council not to change the current ordinance.

**Jack Crosthwait** referred to a petition on behalf of Gilbert Island homeowners and recommended Council accept the zoning text amendment as proposed by the Planning Commission.

Councilmember Cook addressed Mr. Crosthwait asking his opinion of the walls on Roundhill Drive and providing clarification on what the process would be for Gilbert Island homeowners who want to build a wall.

**Mike Palikan** spoke in opposition to the proposed zoning text amendment citing property rights concerns. He defined the burden placed on homeowners as a taking of property.

**Heide Palikan** alleged meetings were held with Roundhill Drive homeowners lending a look of impropriety. Ms. Palikan asked the City Council to deny the proposed zoning text amendment or at the very least to follow the staff recommendations.

**Marlene Lopin** spoke about landscaping of slopes and her concerns about erosion and maintenance of walls. Ms. Lopin asked the Council to approve the Beautification, Landscape, and Trees (BLT) recommendations.

**Jacqueline McAniff** spoke in opposition to the proposed zoning text amendment, as it is not fairly applied to all properties, in her opinion.

**Rick Taylor** spoke relative to concerns for Gilbert Island residents. Mr. Taylor alleged that only Roundhill Drive residents were informed of the meetings held in the last 2 years.

**Bob Frishman** informed Council of his opinion that the more serious problem is the maintenance of the property, whether it be a wall or a slope. Mr. Frishman distributed a Late Communication illustrating an unkept slope.

**Randolph Takasuka** stated his concerns about the notification process relative to the meetings and asked councilmembers to disclose any political affiliations with residents of Roundhill Drive.

**Randy Fuhrman** spoke about the importance of notification. Mr. Fuhrman informed Council that, in his opinion, the current notification is not adequate. He voiced his concern regarding the 3:00 p.m. Zoning Administrator meetings as the level of approval for the Conditional Use Permit.

**Bryan Taylor** spoke in support of the proposed zoning text amendment. Mr. Taylor referred to the original plans for Huntington Harbour's design and asked Council to support the rights given to the association in the Conditions, Covenants, and Restrictions (CC&Rs).

**Josh Rorem** stated his opposition to the proposed amendment citing concerns for property rights.

**Richard Batistelli**, President of the Huntington Harbour Property Owners Association (HHPOA), informed Council of his opinion that over 100 through lot properties exist if you include waterways as frontage and of his concerns about the walls.

**Don Wolter** spoke in support of the proposed zoning text amendment stating his opinion that walls have a negative impact in the appearance of a neighborhood.

**Donna Mance** informed Council that one-third of her property is a slope and she is of the opinion that property rights are more important than aesthetics. Ms. Mance asked Council to deny the proposed amendment.

**Carole Garrett** spoke in support of the 2002 Beautification, Landscape, and Trees (BLT) recommendations. Ms. Garrett alleged notification concerns and that prior recommendations were not enforced.

There being no persons present to speak further on the matter and there being no further protests filed, either written or oral, the Mayor declared the public hearing closed.



Discussion ensued amongst Council and Staff relative to real estate documents and how they address double frontage, Conditions, Covenants and Restrictions (CC&Rs), height of retaining walls and Planning Commission versus Zoning Administrator hearings.

Councilmember Coerper expressed concerns regarding safety and responsibility to one's neighbors. He stated his opposition to Staff's recommended action.

A motion was made by Coerper, second Green to deny Zoning Text Amendment (ZTA) 03-01 and Ordinance No. 3685 *"An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance by Amending Sections 203.06 and 230.88 thereof Relating to Definitions and Fencing and Yards."*

There was further discussion amongst Council and Staff regarding the role of Council as policy-maker, the Conditional Use Permit (CUP) process and Design Review Guidelines, involvement of the Planning Commission, scheduled time of Zoning Administrator meetings, notification, view fences, maintenance, and property rights issues.

Councilmember Coerper withdrew his motion.

A motion was made by Hardy, second Boardman to 1.) start the CUP process at the Planning Commission, 2.) increase notification to 300 feet plus residents of the street facing the wall, 3) change the definitions of primary and secondary frontages.

Mayor Green and Councilmember Cook expressed concerns about making a decision without further information.

Mayor Pro Tem Hardy withdrew her motion and made a new motion, second Cook to direct staff to return November 15, 2004 with guidelines for wall design on through lots and addressing the issues of: starting CUP at Planning Commission level, the notification process, and primary and secondary frontage definitions.

The motion carried by the following roll call vote:

AYES: Coerper, Hardy, Green, Boardman, Cook  
NOES: None  
ABSENT: None  
ABSTAIN: Sullivan

The City Council recessed for 5 minutes.

**(City Council) Public Hearing Opened and Continued Open to October 18, 2004 to Consider Approval of Zoning Text Amendment (ZTA) No. 01-03 (Mobile Home Park Conversions) Amending Chapter 234 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Relating to Relocation Benefits – Ordinance No. 3684 Not Read by Title for Introduction – Direct City Attorney to Add to Proposed Ordinance the Windsor Conversion Relocation Cost Language and Delete 234.08C - Direct Planning Staff to Conduct Research of Further Modifications to Chapter 234 (450.20)**

Mayor Green announced that this was the time noticed for a public hearing to consider the following:

**Applicant:** City of Huntington Beach

**Request: ZTA:** To amend Chapter 234 Mobilehome Park Conversions of the Huntington Beach Zoning and Subdivision Ordinance related to relocation benefits for mobilehome owners when a mobilehome park is converted.

**Location:** Citywide.

**Environmental Status:** Notice is hereby given that this agenda item, Zoning Text Amendment No. 01-03 is categorically exempt from the provisions of the California Environmental Quality Act.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

City Attorney Jennifer McGrath presented an oral report. Council voiced concerns regarding fair market value, 20 mile relocation radius, additional compensation, difficulty in moving mobile homes, pro rated provision, property tax and defensibility of the ordinance.

Mayor Green declared the public hearing open.

Prior to announcing the public speakers, the City Clerk restated for the record the following Late Communications which pertain to this public hearing:

Communication submitted by Keith R. Cuning dated October 1, 2004 (untitled) stating his opposition to the adoption of the ordinance relating to mobile home relocation benefits.

Communication submitted by Vickie Talley, Executive Director of the Manufactured Housing Educational Trust (MHET) dated October 1, 2004 and titled *Mobile Home Park Conversion Ordinance Modification October 4, 2004 Agenda Item D-2* stating opposition to the proposed amendments to the city's Mobile Home Park Conversion Ordinance Chapter 234.

Communication submitted by Steve Gullage from Maurice A. Priest, Corporate Counsel & Legislative Advocate for Golden State Manufactured-Home Owners League, Inc. (GSMOL) dated October 4, 2004 and titled *Proposed Modifications to Mobile home Park Conversion Ordinance Chapter 234; Comments on Proposed Wording of Proposed Changes No. 3684* urging the rejection of the proposed changes found in ordinance number 3684, and instead adopt and affirm the changes to Ordinance Chapter 234 as of September 6, 2004.

**Robert Lupo** spoke regarding the proposed ordinance and the Mobile Home Advisory Board (MHAB). Mr. Lupo asked the City Council to suspend any action to give the attorneys time to review the proposed amended ordinance.

**Vickie Talley**, Executive Director of the Mobile Home Educational Trust (MHET) stated for the record her strong opposition to the proposed ordinance. She spoke relative to state laws and the measure of fair and reasonable. Ms. Talley further spoke about the best use of land and the park owners' decisions to pursue such.

**Jim Hodson**, owner of Pacific Mobile Home Park, spoke about fair compensation, reasonable relocation radius, and property rights as protected in the constitution. Mr. Hodson stated in his opinion that the proposed ordinance would place an undue burden on the mobile home park property owners.

**Steve Gullage**, President of the Golden State Mobile Homeowners League (GSMOL) spoke relative to reasonable costs of relocation. Mr. Gullage asserted his opinion that the proposed ordinance does not adequately address the various costs involved, and made suggestions to remedy Section 234.08A.

**Joey Racano** spoke regarding the Cabrillo Mobile Home Park and best use of parklands. He referred to what he defined as unmitigatable damage that can occur to the homeowners.

**Mary Jo Baretich** spoke in opposition to Chapter 234.09C1 of the proposed ordinance which addresses a landowners application for exemption from relocation assistance obligations, and of the need to update the current code.

There being no persons present to speak further on the matter and there being no further protests filed, either written or oral, the Mayor declared the public hearing closed.

Council discussion ensued regarding the issues raised by the speakers, potential rent increases, and timelines.

A motion was made by Boardman, second Cook to direct the City Attorney to add to the proposed ordinance the Windsor conversion relocation cost language. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Boardman, Cook  
NOES: Green  
ABSENT: None

City Attorney Jennifer McGrath asked the Council for further clarification on Chapter 234.08.

A motion was made by Cook, second Boardman to delete language 234.08 section C – additional compensation from the proposed ordinance.

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook  
NOES: None  
ABSENT: None

Councilmember Sullivan made further inquiries relative to rent control and the City Charter, in answer to which the City Attorney stated that she would further research state preemptions.

A motion was made by Cook, second Boardman to continue the item until the October 18, 2004 City Council meeting. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Boardman, Cook  
NOES: Green  
ABSENT: None

A motion was made by Cook, second Sullivan to reopen the closed public hearing and continue it open to the October 18, 2004 City Council meeting to **consider** approval of introduction of Ordinance No. 3684 *"An Ordinance of the City of Huntington Beach Amending Chapter 234 of the Huntington Beach Zoning and Subdivision Ordinance Pertaining to Mobilehome Park Conversions,"* and directed Planning staff to conduct additional research of further modifications to Chapter 234. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook  
NOES: None  
ABSENT: None

**(City Council) *Opened and Continued Open to 10/18/04* - Public Hearing to Consider Approval of Zoning Text Amendment No. 03-02 (City Wide Entitlement Permit Streamlining Project - Phase II) by Amending 15 Chapters of the Huntington Beach Zoning and Subdivision Code and Various Sections of the Downtown Specific Plan SP-5 – Approve Introduction of Ordinance Nos. 3668A or B and 3669 through 3682, Inclusive (450.20)**

Mayor Green announced that this was the time noticed for a public hearing to consider the following:

**Applicant:** City of Huntington Beach

**Request:** To amend 15 chapters of the Huntington Beach Zoning and Subdivision Ordinance, codify policies and clarify certain sections of existing codes and amend various sections of the Downtown Specific Plan SP 5. The proposed amendments are intended to reduce the overall number of discretionary entitlement applications by allowing the use by right or having a lower level discretionary body review the entitlement.

**Location:** Citywide

**Environmental Status:** This Agenda Item is categorically exempt from the provisions of the California Environmental Quality Act.

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

A motion was made by Hardy, second Cook to continue this item to the October 18, 2004 meeting.

The motion carried by the following roll call vote:

AYES: Coerper, Hardy, Green, Boardman, Cook  
NOES: None  
ABSENT: None (Sullivan out of the room)

#### **Consent Calendar – Items Approved**

On motion by Boardman, second Green, Council approved the following Consent Calendar items, as recommended. The motion carried by the following roll call vote:

AYES: Coerper, Hardy (abstained on August 23, 2004 minutes), Green, Boardman, Cook  
NOES: None  
ABSENT: None (Sullivan out of the room)

**(City Council/Redevelopment Agency) Minutes (120.65)** - Approved and adopted the minutes of the City Council/Redevelopment Agency Regular Meetings of August 16, 2004 and Adjourned Meetings of August 23, 2004 as written and on file in the Office of the City Clerk. Submitted by the City Clerk.

**(City Council) Adopted Resolution No. 2004-83 Approving the Submittal to the Orange County Transportation Authority (OCTA) of Two Landscape Enhancement Projects under the Transportation Enhancement Activity (TEA) Program: (1.) Brookhurst Street Frontage (Kamuela Drive to Cutty Sark Drive) and (2.) Main Street Median (Huntington Street to Delaware Street) (340.70) – Adopted Resolution No. 2004-83– “A Resolution of the City Council of the City of Huntington Beach Authorizing Application for Funds for the Transportation Enhancement Activity (TEA) Program under the 1998 Transportation Equity Act for the 21<sup>st</sup> Century for Brookhurst Street Frontage Landscape Improvement Project and the Main Street Median Landscape Improvement Project.”** Submitted by the Public Works Director. Funding Source: Funding is not required for the resolution. Should the projects be awarded, Measure M funds of approximately \$182,500.00 are available and will be required to provide the minimum 25% match. An incremental increase in General Fund annual maintenance costs would be required to maintain these enhancements and will be identified by a Maintenance Impact Statement Per Administrative Regulation (AR) 310 prior to project construction.

**(City Council) Approved Amendment No. 9 to Cooperative Agreement No. C-95-975 between the City and the Orange County Transportation Authority (OCTA) for Roadway Improvements through the Combined Transportation Funding Program (CTFP) (600.25) –** Approved and authorized the Mayor and City Clerk to execute *Amendment No. 9 to Cooperative Agreement No. C-95-975 between the Orange County Transportation Authority and the City of Huntington Beach*. Submitted by the Public Works Director. Funding Source: None required. Over the next five fiscal years, street improvement grants totaling up to \$5.9 million have been awarded to the City.

**(City Council) Approved Amendment No. 2 Authorizing Execution of a One-Year Extension to the Professional Services Contract between the City and The Ferguson Group, LLC to Assist in Acquisition of Federal Funding for Priority Projects within the City and Related Legislative Issues (600.10) –** Authorized the Mayor and City Clerk to execute *Amendment No. 2 to Agreement between the City of Huntington Beach and the Ferguson Group LLC* for the purpose of assisting the City in the acquisition of Federal funds for priority projects within the City. Submitted by the City Administrator. Funding Source: Funds for the Contract have been budgeted in the 2004-05 fiscal year budget under General Fund Intergovernmental Relations Professional Services Account #10030201.69365. The total cost for this contract amendment is not to exceed \$79,800.00 for the year. (At the City Council meeting of September 7, 2004 the Council approved renewing the contract with The Ferguson Group, LLC for an additional year. This action is simply to authorize the Mayor to execute the contract.)

**(City Council) Approved Amendment No. 2 Authorizing Execution of a One-Year Extension of the Professional Services Contract between the City and Advocation, Inc. to Assist in Acquisition of State Funding for Priority Projects within the City and Related Legislative Issues (600.10) –** Authorized the Mayor and City Clerk to execute *Amendment No. 2 to Agreement between the City of Huntington Beach and Advocation, Inc.* for professional services related to the acquisition of state funds for priority projects and related legislative issues. Submitted by the City Administrator. Funding Source: Funds for the Contract have been budgeted in the 2004-05 fiscal year budget under General Fund Intergovernmental Relations Professional Services Account #10030201.69365. The total cost for this contract amendment is not to exceed \$64,000.00 for the year. (At the City Council meeting of September 7, 2004 the Council approved renewing the contract with Advocation, Inc. for an additional year. This action is simply to authorize the Mayor to execute the contract.)

**(City Council) Approved Professional Services Contract Between the City and Renee Mayne for Chief Negotiator Services for Labor Contract Negotiations – HBFA (Huntington Beach Fire Association), HBMEA (Huntington Beach Municipal Employees' Association), and HBPOA (Huntington Beach Police Officers' Association) (600.10)** – Approved and authorized the execution by the Mayor and City Clerk of *the Professional Services Contract Between the City of Huntington Beach and Renee Mayne for Chief Negotiator Services for Labor Contract Negotiations*. Submitted by the Administrative Services Director. Funding Source: Funding is available in the Human Resources Professional Service Account 10035303.

**(City Council) Adopted Resolution of Necessity No. 2004-84 Approving the Acquisition of a Portion of Certain Real Property Located at 8101 Ellis Avenue, Assessor's Parcel No. 157-343-18, by Eminent Domain to Acquire Right-of-Way for the Ellis Avenue Widening Project; CC-891 (650.50)**

Mayor Cathy Green announced the following:

1. This agenda is a specially noticed hearing held under **Code of Civil Procedure** Section 1245.235. Only those persons who have been specially noticed and have previously requested to appear and be heard, or their designees, under **Code of Civil Procedure** Section 1245.235, shall be heard at this time.
2. The subject matter of this special hearing is limited to the following items:
  - A. Whether the public interest and necessity require the proposed project;
  - B. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
  - C. Whether the property described in the Resolution of Necessity is necessary for the proposed project;
  - D. Whether an offer of just compensation pursuant to **Government Code** Section 7267.2 has been made to the owner or owners of record.
3. The amount of compensation is not at issue during this public hearing. It will be decided by the courts at a later date, should the Resolution of Necessity be adopted.
4. Pursuant to **Code of Civil Procedures** Section 1245.240, this Resolution of Necessity requires a two-thirds vote of all Council members (which means 5 affirmative votes) for adoption.

Legal notice as provided to the City Clerk's Office by staff had been mailed, published and posted.

The City Council considered communication from the Administrative Director and the Public Works Director transmitting the following **Statement of Issue**: This resolution will authorize the City's use of its eminent domain power to acquire right-of-way for the Ellis Avenue Widening Project; CC-891.

The City Council considered a communication submitted by John Craney dated September 30, 2004 and titled *Huntington Beach City Council Agenda for 10/4/04* requesting a delay in the public hearing for property located at 8101 Ellis Avenue until after the 15<sup>th</sup> of October 2004, which was announced earlier as a Late Communication.

Council discussion followed relative to notification, eminent domain and the effects of delaying the project.

Councilmember Coerper asserted that he would not be supporting the resolution.

Mayor Green asked if the property owners or anyone else wished to heard.

City Engineer Dave Webb gave a Power Point report titled *Resolution of Necessity 8101 Ellis Avenue*, which had been announced earlier as a Late Communication.

A motion was made by Boardman, second Sullivan to Adopt **Resolution No. 2004-84 – “A Resolution of Necessity of the City Council of the City of Huntington Beach, California Approving the Acquisition of a Portion of Certain Real Property Located at 8101 Ellis Avenue, Assessor’s Parcel No. 157-343-18, by Eminent Domain to Permit Street Widening.”**

The motion carried by the following roll call vote:

AYES:	Sullivan, Hardy, Green, Boardman, Cook
NOES:	Coerper
ABSENT:	None

**(City Council) Approved Appeal Referred by the Planning Commission and Filed by Mayor Cathy Green on Behalf of Applicant, Verizon California, Inc. of the Planning Director’s Denial of Design Review No. 04-18 (Fiber Optic Upgrade of Verizon’s Telecommunications System) (420.40)**

The City Council considered a communication from the Planning Director transmitting for Council consideration the referral by the Planning Commission of an appeal by Mayor Green of the Planning Director’s denial of Design Review No. 04-18. The application represents a request by Verizon California, Inc. to review the design, colors, and materials for the installation of 235 pedestal mounted hubs to accommodate the fiber optic upgrade of Verizon’s telecommunication systems.

City Clerk Flynn restated the Late Communication, which had been announced earlier.

Planning Director Howard Zelefsky gave an oral report.

Council discussed with staff and Mr. Tim McCallion, Verizon representative, concerns regarding the size and location of the boxes used to accommodate the fiber optic connections, future upgrades of the boxes based on improved technology, graffiti issues and the option of a no fee license agreement.

Mr. McCallion informed Council that the size of the box is determined by the size of the location being served. He also spoke regarding graffiti-resistant paint, maintenance, and the range of choices the citizens would have for service.

Further discussion ensued relative to the value of the added service and the consequences of delaying the project. Mr. McCallion informed Council of Verizon’s critical time period.

Councilmember Cook stated her opposition to the appeal.

A motion was made by Coerper, second Green to approve Design Review No. 04-18 with Findings and Suggested Conditions for Approval.

The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green  
NOES: Boardman, Cook  
ABSENT: None

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL  
DESIGN REVIEW NO. 04-18

FINDINGS FOR APPROVAL – DESIGN REVIEW NO. 04-18:

1. The proposed design and locations of the pedestal mounted hubs, as modified by the suggested conditions of approval, will not have a negative visual impact on the public rights-of-way of the City since the design is harmoniously integrated into the neighborhoods or districts within the City of Huntington Beach. The installation of the proposed hubs has considered the best design options or location to adequately screen or conceal the hubs. The proposed project does conform to the General Plan by carrying out the following goals, objectives, and policies:

Urban Design Element

Goal UD 1: Enhance the visual image of the City of Huntington Beach.

UD 1.3.1: Require a consistent design theme and/or landscape design character along the community's corridors that reflects the unique qualities of each district. Ensure that streetscape standards for the major commercial corridors, the residential corridors, and primary and secondary image corridors provide each corridor with its own identity while promoting visual continuity throughout the City.

Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands which maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 8: Achieve a pattern of land uses that preserves, enhances and establishes a distinct identity for the City's neighborhoods, corridors, and centers.

Utility Element

I-U 2: Through the development or design review process, require or continue to require the review of all proposed expansions, relocations, or new facilities for compliance with applicable development standards and for potential impacts.

2. The design and locations of the proposed pedestal hubs have incorporated design solutions to reduce their visual impact. The proposed pedestal mounted hubs are adequately screened from view and or have proposed a size and design to reduce the potential negative visual impact on the community.
3. The design and the locations of the proposed pedestal mounted hubs, as modified by the suggested conditions of approval, will contribute to the visual quality of the City. The



proposed project with modifications has been designed in a manner to contribute to the improved design theme of the City. The design, size, and locations of the utility hubs will contribute to the improved design theme of the City and will improve the visual image of the City by the use of alternative design solutions to reduce their overall size, use of landscaping to screen them from view or by the possible undergrounding of the hubs.

4. The design and locations, as modified by the suggested conditions of approval, do achieve a pattern of land uses that preserves, enhances and establishes a distinct identity for the City's neighborhoods, corridors, and centers

#### CONDITIONS OF APPROVAL – DESIGN REVIEW NO. 04-18:

1. The plans received and dated September 17, 2004 shall be the conceptually approved design with the following modifications:
  - a. The remaining 235 hubs shall be pedestal-mounted only.
  - b. Landscaping shall be incorporated into the hub locations to screen the pedestal-mounted hubs to the greatest extent possible.
  - c. The hub colors shall be pale green, beige, or brown previously approved by the Design Review Board on May 13, 2004.
2. The Public Works Department shall determine the final location of the pedestal mounted hubs within the public right of ways.
3. The applicant shall be responsible for the maintenance of all the pedestal mounted hubs. In the event the exterior condition of any hub passively deteriorates, whether due to fading or rusting or any other condition, to the point that the city, in its exclusive judgment, determines the particular hub to be aesthetically unattractive due to such condition, the city shall provide Verizon with a 15 day written demand that Verizon restore the exterior of the hub to "like new" condition, and in the event Verizon shall fail to restore the hub within 15 working days of notification, the city is entitled to do so and any expenses incurred by the city shall be immediately reimbursed by Verizon. In the event that the exterior condition of any hub is altered due to the activities of any third party, whether by accident or otherwise, such as vandalism, graffiti, the placement of signs, stickers or other material on the hub, the city is entitled to provide Verizon with a 15 day written demand that Verizon immediately restore the hub to "like new" condition, and in the event fails to do so within 15 working days of notification, the city shall be entitled to make such repairs as in its judgment are necessary and Verizon shall reimburse the city for the costs incurred. The Director of Public Works shall be responsible for the maintenance determination and oversight of the hubs.

#### INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**(City Council) Failed to Adopt Emergency Interim Ordinance No. 3683 Imposing a 45-Day Moratorium on the Issuance of Building Permits for the Construction of Single Family, Low Density Three-Story Homes – Directed Staff to Return to Council to a Date Uncertain with a Review of What the City Has Currently and Direction it is Headed Regarding Height Limits and Specific Plans (440.70)**

The City Council considered a communication from the City Attorney and the Planning Director transmitting that on September 7, 2004, the City Council requested the staff to return with an interim ordinance that would impose a 45-day moratorium on construction of three-story, single family homes. In order to adopt the ordinance and impose the moratorium, the City Council must find that the issuance of building permits for construction of three-story single family homes or remodel of homes to add a third story presents a current and immediate threat to the public health, safety, or welfare, and the approval of additional building permits for such homes would result in that threat to public health, safety, or welfare.

Planning Director Howard Zelefsky gave an oral report.

A motion was made by Sullivan, second Hardy to adopt **Ordinance No. 3683** – “*An Interim Ordinance of the City of Huntington Beach Imposing a Moratorium on the Issuance of Building Permits for Construction of Single Family, Low Density Three-Story Homes.*”

(Six affirmative votes are required for adoption of this Interim Ordinance per Government Code Section 65858)

Councilmember Cook suggested amending the motion to exclude those individuals with applications approved as of October 4, 2004. The maker of the motion and the second agreed to this amendment. The **amended** motion **failed** by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Boardman, Cook  
NOES: Green  
ABSENT: None

A motion was made by Cook, second Hardy to direct staff to establish a specific plan area for Southeast Huntington Beach.

Councilmember Sullivan stated his opposition to this motion stating his opinion that any rule should address the entire city.

Councilmember Cook withdrew her motion and made a new motion, second Green, to direct staff to review and report back to Council at a date uncertain what the City currently has in place and the direction the City is headed regarding height limits and specific plans. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman, Cook  
NOES: None  
ABSENT: None

**(City Council) Continued from September 20, 2004 - Selected a Procedure to Appoint a City Council Member for the Unexpired Term – Accepting Applications with a Deadline of Noon October 13, 2004 for Council Review at the October 18, 2004 Meeting (120.40)**

The City Council considered communication from Mayor Cathy Green transmitting the following **Statement of Issue**: City Council Member Pam Houchen has resigned, effective September 2, 2004. Since the next regular election for City Council Members will not be held until November

2, 2004, a process needs to be approved regarding the appointment of a new City Council Member by the City Council to serve the remainder of the current unexpired term.

Council discussed the alternatives with staff.

A motion was made (results to follow) by Coerper, second Green to conduct a short recruitment and interview process, and make a selection after interviewing several qualified candidates.

A substitute motion was made by Hardy, second Boardman to appoint Grace Winchell to the vacancy. The substitute motion **failed** by the following roll call vote:

AYES: Hardy, Boardman, Cook  
NOES: Sullivan, Coerper, Green  
ABSENT: None

Council discussion ensued regarding interviews, applications, candidates for election, and perceptions of appointing a candidate.

The main motion **failed** by the following roll call vote:

AYES: Coerper, Green, Cook  
NOES: Sullivan, Hardy, Boardman  
ABSENT: None

A motion was made by Sullivan, second Coerper to begin the application process, using the Boards and Commissions application, to be submitted to City Clerk's Office by noon on October 13, 2004 for council review at the October 18, 2004 meeting. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Hardy, Green, Boardman  
NOES: Cook  
ABSENT: None

Staff clarified that the application is available on the website and hard copies may be obtained in the City Clerk's Office.

**(City Council/Redevelopment Agency) Declined a Contribution of \$1,000.00 from the Downtown Business Association and Directed Staff Not to Proceed with the Replacement of the Majestic Beauty Trees with Queen Palm Trees in Downtown Main Street Utilizing Redevelopment Agency Funds (410.20)**

The City Council considered a communication from City Council/Redevelopment Agency Member Gil Coerper transmitting the following **Statement of Issue**: On March 15, 2004, the City Council concurred with a number of advisory bodies that Queen Palms should be the replacement tree for the Majestic Beauty trees in the Downtown. As part of that action, rather than proceeding with the replacement of all of the trees using \$15,000 in available Redevelopment Agency funds, the Council requested that the Downtown merchants provide a match of half of the amount or \$7,500. To date, only a few of the trees have been replaced.

**ANALYSIS:**

At the Downtown Issues Economic Development Committee meeting on September 24, 2004, Steve Daniels reported that they had raised \$1,000 of the funds needed but had not been able to raise all of the funds given the focus on recent efforts to secure approval of the Downtown BID (Business Improvement District).

I believe it is appropriate for the City Council to reconsider its prior decision for a number of reasons:

- The existing Majestic Beauty trees, because of their height and size, encroach into the sidewalk area, creating my concern for safe passage of the numerous pedestrians in the downtown area;
- Replacement of the trees using redevelopment funds will assist the newly formed BID in getting started;
- The Council's action in forming the BID reduced the assessments from \$500 per year to \$250 for businesses occupying 1,000 or less square feet, which will deprive the BID of an estimated \$10,000 to \$20,000 of revenue in its first year of operation, a portion of which could have been used towards trees.

Economic Development/Deputy Executive Director David Biggs gave an oral report.

A motion was made by Coerper, second Green to accept a contribution of \$1,000 from the Downtown Business Association and direct staff to proceed with the replacement of the Majestic Beauty trees utilizing Redevelopment Agency funds. The motion **failed** by the following roll call vote:

AYES: Coerper, Green  
NOES: Sullivan, Hardy, Boardman, Cook  
ABSENT: None

**Adjournment – City Council/Redevelopment Agency**

Mayor Green adjourned the regular meetings of the City Council/Redevelopment Agency of the City of Huntington Beach at 1:10 a.m. to Friday, October 15, 2004, at 2:00 p.m., in Room B-8 Civic Center, 2000 Main Street Huntington Beach, California.

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City Clerk and ex-officio Clerk of the City  
Council of the City of Huntington Beach  
and Clerk of the Redevelopment Agency  
of the City of Huntington Beach, California

ATTEST:

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City Clerk-Clerk

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Mayor-Chair